

A social club providing exclusive and automatic membership to home owners in a housing development, with no part of its earnings inuring to the benefit of any member, may qualify for exemption under section 501(c)(7) of the Code.

The Internal Revenue Service has been asked whether the club described below is exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code of 1954.

The club was incorporated by a housing developer as a nonprofit membership corporation for the purpose of establishing and operating social facilities, including a swimming pool, for the benefit of purchasers of homes in the development. Membership in the club is open only to home owners in the development, which consists of several hundred family housing units. Pursuant to an agreement between the developer and the club (1) the developer constructed the facilities, (2) the club received title to the facilities upon their completion, (3) the original home owners paid, on a pro-rata basis, the contract price for the facilities as part of the purchase price of their homes and lots, and (4) each lot on which a home is situated is subject to a recorded covenant that entitles the purchaser to membership in the club.

The club's bylaws provide that all members have equal voting rights. The club is managed and controlled by a board of directors elected from and by the members. The officers of the club are elected by the board of directors, and they have authority to hire a club manager to operate and maintain the club's facilities. The developer is not involved in the operation, maintenance, or management of the facilities.

Use of the facilities is restricted to members and their guests. Members are charged a nominal fee for admittance of guests. The club's operating expenses are paid from annual membership dues and guest fees. No part of the net earnings of the club inures to the benefit of any member.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

It is recognized that the existence of the club's facilities assisted the developer in selling homes. However, the club is not controlled by him and is not operated as a commercial venture for his financial benefits. Instead, the club is operated exclusively for the pleasure and recreation of its established membership of individuals by providing recreational facilities that afford opportunities for fellowship and social commingling.

Accordingly, it is held that the club is exempt from Federal income tax under section 501(c)(7) of the Code. The fact that membership in the club is automatic on becoming a home owner does not affect its qualification for exemption.

Even though an organization considers itself within the scope of this Revenue Ruling, it must (in order to establish exemption under section 501(c)(7) of the Code) file an application on Form 1025, Exemption Application, with the District Director of Internal Revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.